

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,)	Application No. 911-026 / PI-122
on its own motion, seeking to determine)	
Enhanced Landline 911 surcharge)	
payment requirements for interconnected)	
Voice Over the Internet Protocol Providers)	

COMMENTS OF TIME WARNER CABLE

I. Introduction

Time Warner Cable Information Services (Nebraska), LLC d/b/a Time Warner Cable (hereinafter "Time Warner Cable") hereby submit comments in the above-referenced docket. Time Warner Cable appreciates the opportunity to submit comments in this matter responsive to the Order Opening Docket, Seeking Comments and Scheduling Hearing dated September 26, 2006 (the "Order") entered herein by the Nebraska Public Service Commission (the "Commission"). In the Order, the Commission seeks comment on specific issues outlined below, and Time Warner Cable's following comments are limited thereto.

II. Questions Presented

A. VoIP Provider Collection and Remittance of landline 911 surcharge

The Commission's first inquiry concerns whether the Emergency Telephone Communications System Act (the "Act") requires interconnected VoIP providers to collect and remit the landline 911 surcharges imposed by governing bodies.

B. Federal Preemption of state E911 fees for interconnected VoIP Providers

The Commission's second inquiry concerns whether requiring interconnected VoIP providers to collect and remit the landline 911 surcharges imposed by governing bodies is preempted by federal law.

C. Whether the Act Permits the Imposition of E911 surcharges on wholesale providers with whom interconnected VoIP providers contract

The Commission's third inquiry concerns whether imposition of the landline 911 surcharges on the wholesale providers with whom interconnected VoIP providers contract to provide E911 service is permissible under the Act.

III. Responsive Comments

Time Warner Cable provides to residential customers in Nebraska a facilities-based IP enabled voice service branded as Digital Phone. Time Warner Cable's Digital Phone service provides dependable, full-feature telephone service to its customers in Nebraska, including enhanced 911 service. Rather than traversing the public "Internet," Time Warner Cable utilizes its own managed IP network and, where necessary, the public switched telecommunications network ("PSTN") to complete all Digital Phone calls. For PSTN connectivity, Time Warner Cable passes calls to its wholesale vendor, Sprint Communications Corporation ("Sprint"). In addition, Digital Phone calls to 911 are routed by Sprint to the selective router in the same manner as 911 calls originating from traditional wireline carriers.

The Act allows governing bodies to impose a uniform service charge for 911 service on "each local exchange access line physically terminating in the governing body's 911 service area." Neb. Rev. Stat. § 86-435(1). Although the Act in Neb. Rev.

Stat. § 86-427 further defines "local exchange access line" as "any telephone line that has the ability to access local dial tone and reach a public safety answering point by dialing 911," the qualification for physical termination found in § 86-435(1) leaves in doubt whether interconnected VoIP services, provided in the manner described above, fit the statutory requirements for imposition of the obligation to collect and remit the 911 surcharge.


Time Warner Cable is interested in and has closely followed the decisionmaking of the FCC with regard to the regulatory classification of IP based voice services and preemption of state law-based 911 fee requirements for interconnected VoIP providers. Because the FCC has not yet issued definitive direction on these issues, Time Warner Cable believes the best course of action for state regulatory agencies is to await further clarification from the FCC on these issues before making determinations, for instance, as to whether interconnected VoIP services are "local exchange access lines" under Nebraska law.

Time Warner Cable also wishes to underscore its commitment to the public policy underlying the Act and the important public safety role that the E911 system plays for Nebraskans. As a direct participant in the E911 system and a user of the E911 wireline network, Time Warner Cable remits the 911 surcharge provided for in the Act.

Respectfully Submitted,

TIME WARNER CABLE

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that one original and five (5) copies of the foregoing, along with an electronic copy of the same, were served upon Andy S. Pollock, Executive Director of the Commission, on this 31st day of October, 2006, by electronic and regular U.S Mail.

